

through issuance of a conditional commitment by the Secretary or a certificate of reasonable value by the Department of Veterans Affairs, and

(b) A specified mortgagor and all other proposed terms and conditions of the mortgage meet the eligibility requirements for insurance as determined by the Secretary, the Secretary shall approve the application for insurance by issuing a firm commitment setting forth the terms and conditions of insurance.

[57 FR 58346, Dec. 9, 1992; 58 FR 13537, Mar. 12, 1993, as amended at 62 FR 30226, June 2, 1997]

MISCELLANEOUS REGULATIONS

§ 203.9 Disclosure regarding interest due upon mortgage prepayment.

Each mortgagee with respect to a mortgage under this part shall at or before closing with respect to any such mortgage, provide the mortgagor with written notice in a form prescribed by the Commissioner describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after August 22, 1991.

[56 FR 18947, Apr. 24, 1991]

§ 203.10 Informed consumer choice for prospective FHA mortgagors.

(a) *Mortgagee to provide disclosure notice.* A mortgagee must provide a prospective FHA mortgagor with an informed consumer choice disclosure notice if, in the mortgagee's judgment, the prospective FHA mortgagor may qualify for similar conventional mortgage products offered by the mortgagee. The mortgagee should base this judgment on the mortgagee's initial assessment of the prospective FHA mortgagor's eligibility for a conventional mortgage product. If a mortgagee is unsure about a prospective FHA mortgagor's eligibility for a conventional mortgage product, the mortgagee should provide the prospective FHA mortgagor with an informed consumer choice disclosure notice.

(b) *Informed consumer choice disclosure notice—(1) Contents of notice.* The in-

formed consumer choice disclosure notice must:

(i) Provide a one page generic analysis comparing the mortgage costs of an FHA-insured mortgage with the mortgage costs of similar conventional mortgage products offered by the mortgagee that the prospective FHA mortgagor may qualify for;

(ii) Provide information about when the requirement to pay FHA mortgage insurance premiums terminates; and

(iii) Meet the requirements of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)).

(2) *Format of disclosure notice.* The informed consumer choice disclosure notice must be provided in a format prescribed by the Commissioner. HUD has prepared a model informed consumer choice disclosure notice that represents this format and that meets the requirements of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)). The model informed consumer choice disclosure notice contains the minimum elements of an informed consumer choice disclosure notice. These elements must be included in a mortgagee's informed consumer choice disclosure notice. A mortgagee, however, may include additional elements in an informed consumer choice disclosure notice to better reflect the mortgagee's products or to provide information that the mortgagee believes is meaningful and helpful to the mortgagee's customers.

(3) *Availability of model disclosure notice.* HUD's model informed consumer choice disclosure notice is made available to FHA-approved mortgagees through Mortgagee Letter and is available to the public through the internet at HUD's web site at <http://www.hud.gov> or by contacting: Home Mortgage Insurance Division, Office of Insured Single Family Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000; telephone (202) 708-2700 (this is not a toll-free number), or the nearest HUD Homeownership Center (Atlanta, GA (888) 696-4687; Denver, CO (800) 543-9378; Philadelphia, PA (800) 440-8647; or Santa Ana, CA (888) 827-5605). Hearing- or speech-impaired individuals may access these numbers via TTY by calling

the toll-free Federal Information Relay Service at (800) 877-8339.

(c) *Timing.* When required under paragraph (a) of this section, a mortgagee must provide an informed consumer choice disclosure notice to a prospective FHA mortgagor not later than three business days after the mortgagee receives the prospective FHA mortgagor's application.

(d) *Revision of notice.* A mortgagee should revise its informed consumer choice disclosure notice periodically to reflect prevailing market conditions. To ensure that the informed consumer choice disclosure notice reflects prevailing market conditions, a mortgagee must revise its informed consumer choice disclosure notice at least once annually.

(e) *Applicability.* This section applies to any application for mortgage insurance authorized under section 203(b) of the National Housing Act (12 U.S.C. 1709) that the mortgagee receives on or after September 2, 1999.

(f) *Definitions.* As used in this section: *Application* means the submission of financial information in anticipation of a credit decision.

Conventional mortgage means conventional mortgage as used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable.

Mortgagee means mortgagee as defined in § 202.2 of this chapter.

Prospective FHA mortgagor means a person who submits an application to a mortgagee to obtain mortgage insurance authorized under section 203(b) of the National Housing Act (12 U.S.C. 1709).

[64 FR 29765, June 2, 1999, as amended at 64 FR 34984, June 30, 1999]

§ 203.12 Mortgage insurance on proposed or new construction.

(a) *Applicability.* This section applies to an application for insurance of a mortgage on a one-to four-family dwelling, unless the mortgage will be secured by a dwelling that:

(1) Was completed more than one year before the date of the application for insurance or, under the Direct En-

dorsement Program, was completed more than one year before the date of the appraisal; or

(2) Is being sold to a second or subsequent purchaser.

(b) *Procedures.* (1) Applications for insurance to which this section applies will be processed in accordance with procedures prescribed by the Secretary. These procedures may only provide for endorsement for insurance of a mortgage covering a dwelling that is:

(i) Approved under the Direct Endorsement Program or the Lender Insurance Program; or

(ii) Located in a subdivision approved by the Rural Housing Service.

(2) The mortgagee must submit a signed Builder's Certification of Plans, Specifications and Site (Builder's Certification). The Builder's Certification must be in a form prescribed by the Secretary and must cover:

(i) Flood hazards;

(ii) Noise;

(iii) Explosive and flammable materials storage hazards;

(iv) Runway clear zones/clear zones;

(v) Toxic waste hazards;

(vi) Other foreseeable hazards or adverse conditions (i.e., rock formations, unstable soils or slopes, high ground water levels, inadequate surface drainage, springs, etc.) that may affect the health and safety of the occupants or the structural soundness of the improvements. The Builder's Certification must be provided to the appraiser for reference before the performance of an appraisal on the property.

(3) If a builder (or developer) intends to sell five or more properties in a subdivision, an Affirmative Fair Housing Marketing Plan (AFHMP) that meets the requirements of 24 CFR part 200, subpart M must be submitted and approved by HUD no later than the date of the first application for mortgage insurance in that subdivision. Thereafter, applications for insurance on other properties sold by the same builder (or developer) in the same subdivision may make reference to the existing previously approved AFHMP.

[64 FR 56110, Oct. 15, 1999]